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SENATE BILL 142

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Dede Feldman

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO MEDICAL ASSISTANCE; CREATING A PRESCRIPTION DRUG
DISCOUNT PROGRAM FOR CERTAIN LOW-INCOME PERSONS; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"New Mexico Prescription Drug Discount Act".

Section 2. DEFINITIONS.--As used in the New Mexico
Prescription Drug Discount Act:

A. "department" means the human services
department;

B. "drug benefit" means financial assistance,
subsidy or discount, whether provided through health insurance
coverage or any other private or governmental plan, that
reduces the cost of a prescription drug to the retail

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1 purchaser;

2 C. "medicaid price" means the price set by the
3 department for a prescription drug provided under the medicaid
4 program;

5 D. "member" means a person enrolled in the New
6 Mexico prescription drug discount program;

7 E. "pharmacy" means a place of business licensed
8 as a pharmacy pursuant to the Pharmacy Act; and

9 F. "program" means the New Mexico prescription
10 drug discount program.

11 Section 3. PRESCRIPTION DRUG DISCOUNT PROGRAM CREATED. --

12 A. The medical assistance division of the
13 department shall design and implement a prescription drug
14 discount program under the state's medicaid program to provide
15 only prescription drugs to members and no other medicaid
16 benefits. Implementation of the program shall be pursuant to
17 rules adopted by the department. The program shall be
18 consistent with the provisions of Title 19 of the federal
19 Social Security Act.

20 B. To be eligible for the program, a person shall:
21 (1) be a resident of the state of New Mexico;
22 (2) not have a prescription drug benefit; and
23 (3) have income of no more than three hundred
24 percent of the federal poverty level, according to the levels
25 of income defining poverty by family size published annually

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1 in the federal register by the United States department of
2 health and human services.

3 C. The department shall establish by rule a
4 definition of "income" for purposes of determining eligibility
5 pursuant to Paragraph (3) of Subsection B of this section.

6 The department shall utilize the same methodology for income
7 eligibility methodology for the New Mexico prescription drug
8 discount program as is utilized for medical assistance
9 eligibility in the medicaid program.

10 D. If, in order to implement the program
11 authorized in Subsections A and B of this section it is
12 necessary to obtain a waiver pursuant to Section 1115 of the
13 federal Social Security Act, the department shall apply for
14 the waiver no later than July 1, 2001.

15 Section 4. PRESCRIPTION DRUG DISCOUNT PROGRAM -
16 DEPARTMENT DUTIES. --In establishing the program, the
17 department shall:

18 A. enroll and provide program identification cards
19 to eligible applicants and require presentation of the card by
20 a member when prescription drugs are purchased under the
21 program;

22 B. collect an annual enrollment fee of twenty-four
23 dollars (\$24.00) from members;

24 C. provide pharmacies a list of the current
25 medicaid prices for all prescription drugs and the average

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1 rebates provided for each drug based on the figures used by
2 the department in the previous three months;

3 D. establish procedures to permit pharmacies to
4 notify the department of the price paid by the member;

5 E. obtain prescription drug rebates, as
6 established in the federal Omnibus Budget Reconciliation Act
7 of 1990, from drug manufacturers for prescription drugs
8 provided through the medicaid program; and

9 F. pay to pharmacists amounts equal to the rebates
10 provided to the department's medicaid program by the
11 prescription drug manufacturer based on prescription drugs
12 provided under the program.

13 Section 5. PROGRAM TRANSACTIONS. --

14 A. Upon presentation of a program identification
15 card and a prescription from a licensed practitioner, a
16 pharmacy may fill the prescription and shall charge the member
17 a price no more than the medicaid price less an amount equal
18 to the manufacturer's rebate available to the medicaid program
19 according to figures used by the department in the previous
20 three months.

21 B. A pharmacy that has sold a prescription drug to
22 a member under the program shall notify the department of the
23 transaction, including the price charged for filling the
24 prescription and all other information required by the
25 department.

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1 Section 6. FEDERAL ACT REQUIREMENTS. -- Information
2 required by the department in the program eligibility process,
3 including that for the program identification card and that
4 required of pharmacies participating in the program, shall be
5 in accordance with the federal Health Insurance Portability
6 and Accountability Act of 1996.

7 Section 7. FUNDS DEPOSITED--REPORT. --

8 A. Enrollment fees and rebates from drug
9 manufacturers collected under the program shall be deposited
10 by the department in the general fund.

11 B. The department shall publish in its monthly
12 statistical report the number of program members, the number
13 of participating pharmacies, the total amount paid for
14 prescription drugs under the program, the amount of rebate
15 funds received and the volume of the top fifty prescriptions
16 filled by type of prescription drug and the average amount
17 paid for each type.

18 Section 8. APPROPRIATION. --

19 A. Five million dollars (\$5,000,000) is
20 appropriated from the general fund to the human services
21 department for expenditure in fiscal years 2001 and 2002 as a
22 one-time appropriation in the following amounts for the
23 following purposes:

24 (1) four million seven hundred fifty thousand
25 dollars (\$4,750,000) to make payments to pharmacies for

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1 prescription drugs filled under the program; and
2 (2) two hundred fifty thousand dollars
3 (\$250,000) to apply for any necessary federal waiver, and to
4 administer the New Mexico prescription drug discount program,
5 including funds necessary for one full-time-equivalent
6 employee position in the medical assistance division.

7 B. Expenditure of this appropriation is contingent
8 upon the department receiving a waiver from the federal health
9 care financing administration of certain state plan provisions
10 required pursuant to Title 19 of the federal Social Security
11 Act.

12 C. Any unexpended or unencumbered balance
13 remaining at the end of fiscal year 2002 shall revert to the
14 general fund.

15 Section 9. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect
17 immediately.